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Michael Berthon-Jones

4398-407

4380

23117

7590

04/01/2009

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EXAMINER

JACKSON, BRANDON LEE

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



Art Unit: 3772

### **DETAILED ACTION**

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, drawn to headgear for a respiratory mask comprising a plurality of strap portions being configured such that the plurality of straps resist collapse and retain their shape in a configuration generally approximating the shape of a wearer's head. It is considered that the configuration of the straps comprises a first "special technical feature."

Group II, claim(s) 7-10, drawn to a headgear for a respiratory mask comprising one inextensible strap portion and an elongate member provided to an end portion of at least one strap configured to allow a spacing distance between the strap portion and mask to be varied. It is considered that the inextensible strap portion and the elongate member configured to allow the spacing distance between the strap portion and mask to be varied comprises a second "special technical feature."

Group III, claim(s) 11-15 and 19, drawn to a mask for use with a ventilator or a CPAP device comprising a frame, and a cushion provided to the frame, the cushion and the frame being selectively adjustable relative to one another in one or more discrete portions. It is considered that the cushion and the frame being selectively adjustable to one another in one or more discrete portions comprises a third "special technical feature."

Group IV, claim(s) 16-18, drawn to a mask for use with a ventilator or a CPAP device comprising a frame and a cushion, the frame being at least partially encapsulated within the material of the cushion comprises a fourth "special technical feature."

Group V, claim(s) 20-23, drawn to a mask assembly for use with a ventilator or a CPAP device comprising a mask, a headgear provided to the mask with at least one fastener with an adjustable setting, and a quick release mechanism to allow removal of the mask assembly from a wearer without removing any portion of the headgear from the mask or changing the setting of the fastener. It is considered that the quick release mechanism to allow removal of the mask assembly from a wearer without removing any portion of the headgear from the mask or changing the setting of the fastener comprises a fifth "special technical feature."

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The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2. For the aforementioned reasons above, they lack the same or corresponding special technical features for the following reasons.

A telephone call was made to Paul Bowen on 3/26/2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON JACKSON whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon Jackson/  
Examiner, Art Unit 3772

BLJ

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772

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